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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,452	07/11/2003	Shelley D. Minteer	SLU 4554.1	4859
321	7590	10/10/2006		
SENNIGER POWERS			EXAMINER	
ONE METROPOLITAN SQUARE			MARTIN, ANGELA J	
16TH FLOOR				
ST LOUIS, MO 63102			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/617,452	MINTEER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Angela J. Martin	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 28 July 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-50 is/are pending in the application.  
4a) Of the above claim(s) 1-5,7,9,11,27-41,45 and 48-50 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 6,8,10,12-26,42-44,46 and 47 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/03/8/04/9/05/6/06. 5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 6, 8, 10, 12-26, 42-44, 46, 47 (Species IV) in the reply filed on July 28, 2006 is acknowledged. The traversal is on the ground(s) that biofuel cell claims of Group II depend on the bioanode claims of Group I. This is not found persuasive because the species within the groups are distinct since they each contain characteristics not included in the other species.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6, 8, 10, 12-26, 42-44, 46, 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gregg et al., U.S. Pat. No. 5,264,105, in view of Sanini et al., U.S. Pat. No. 5,521,101, and in further view of Yamamoto et al., U.S. 2002/0127440, and still further view of Wilson, U.S. Pat. No. 5,211,984.

Gregg et al., teach a bioanode comprising (a) an electron conductor;(b) at least one enzyme capable of reacting with an oxidized form of an electron mediator and a the fuel fluid to produce an oxidized form of the fuel fluid and a reduced form of the electron mediator, the reduced form of the electron mediator being capable of releasing electrons to the electron conductor; and (c) an enzyme immobilization material

comprising the electron mediator, the enzyme immobilization material being capable of immobilizing and stabilizing the enzyme, the material being permeable to the fuel fluid (col. 3, lines 1-col. 6, line 25).

Saini discloses a biocathode comprising a gold microband (electron conductor), polyphenol oxidase, quinone (electron mediator), and a polymeric material (enzyme immobilization material). Saini discloses that the polymeric material is Nation (perfluoro sulfonic acid-PTFE copolymer) (col. 11, lines 5-60). Yamamoto teaches that the electrode is made from carbon paper [0027]. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Yamamoto's carbon paper for Gregg's glassy carbon because they are both carbon and conductive material.

Wilson teaches a tertbutyl ammonium modified perfluorosulfonic acid (col. 7, lines 10-20). The modification yields robustness of the material and eliminates acid groups by the bulky ammonium sidegroups. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gregg's Nafion with tertbutyl ammonium ion and enzyme-Nation compositions, as taught by Wilson and Saini taken collectively, for the benefit of eliminating acid groups and increasing the robustness of the immobilizing material. Wilson and Saini disclose that it is known to use the foregoing materials or components in fuel cell applications regardless of the specific type of fuel cells.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Martin whose telephone number is 571-272-1288. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



AJM